

FIFTH AMENDMENT
TO
CONSTRUCTION AGREEMENT

THIS FIFTH AMENDMENT to the Construction Agreement dated April 4, 2016, is made and entered June 11, 2020 (the "Fifth Amendment") between Tectonic CMI Corporation, having an office located at 70 Pleasant Hill Road, Mountainville, NY 10953 ("Contractor"), and the HOUSING TRUST FUND CORPORATION, having its principal office at 38-40 State Street, Albany, New York 12207 ("HTFC").

WITNESSETH:

WHEREAS, Contractor was successfully admitted to the Prequalified List (PQL) for RFQ#201510_039 on January 12, 2016; and

WHEREAS, Contractor was a successful bidder pursuant to an initial Invitation for Bid (IFB) #'s 1,2 and 3 on 2/26/16,3/11/16 and 3/21/16; and

WHEREAS, HTFC and contractor entered into a construction agreement (The "Agreement") on April 4, 2016 pursuant to which contractor provides certain services in support of HTFC's administration of the State of New York's Community Development Block Grant-Disaster Recovery ("CDBG-DR") program; and

WHEREAS, HTFC's Governor's Office of Storm Recovery ("GOSR") is specifically tasked with administering the State of New York's CDBG-DR program and therefore oversees and administers this Agreement; and

WHEREAS, HTFC and Contractor's Contract Price in the Construction Agreement totaled \$1,000,000.00; and

WHEREAS, HTFC and Contractor entered a First Amendment to the Agreement on September 2, 2016 which increased the total fee to \$2,000,000.00 in Contract Amount; and

WHEREAS, HTFC and Contractor entered a Second Amendment to the Agreement on February 3, 2017 which increased the total fee by \$2,000,000.00 to a revised Contract Price of \$4,000,000.00;

WHEREAS, HTFC and Contractor entered a Third Amendment to the Agreement on May 7, 2018 which extended the agreement term to April 3, 2019 with no change on Contract Amount; and

WHEREAS, HTFC and Contractor entered a Fourth Amendment to the Agreement on May 22, 2019 which extended the agreement term to April 3, 2020 with no change on Contract Amount; and

WHEREAS, GOSR seeks to extend the Term of the Agreement to April 3, 2021; and

WHEREAS, HTFC/GOSR and Contractor desire to amend the Agreement by means of this Fifth Amendment in order to increase the Contract Price and extend the Term of the Agreement to allow Contractor to perform additional services;


NOW, THEREFORE, pursuant to and in consideration of the above, and other mutual covenants and obligations herein contained, it is

STIPULATED AND AGREED as follows:

1. The Third and Fourth sentences of Article 3 Section 3.1 are hereby deleted and replaced with the following:
“Notwithstanding the latter, Contractor agrees that in no event will HTFC pay the Contractor more than \$4,100,000.00 (“Contract Price”) for the Services under all applicable work orders under this Construction Agreement unless the Contract Price is first modified in writing by a fully executed Amendment to this Construction Agreement. For the avoidance of doubt, the Contract Price for all work to be performed pursuant to this Construction Agreement **shall not exceed \$4,100,000.00.**”
2. Section 4.3 of Article 4 is hereby deleted and replaced with the following:
“4.3 Period of Performance. Contractor will perform the Work set forth in all applicable Work Orders under this Construction Agreement during the period: **April 4, 2016 thru December 31, 2021.**”
3. All other terms and conditions, including appendices, attachments, exhibits, riders, prior Amendments, and Letter Agreements to the Agreement are hereby continued in full force and effect as though set forth herein.

IN WITNESS WHEREOF, the parties executed this Third Amendment on the day and year first above written.

Tectonic CMI Corporation

By: 
Name: Thomas J. Critelli, P.E.
Title: Chief Operating Officer
Date: 6/11/20

Housing Trust Fund Corporation

By: Emily Thompson
Name: Emily Thompson
Title: Acting General Counsel,
Governor's Office of Storm Recovery
Date: 6/11/2020